THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 13272 of 1995.

DATED: 5-12-2006

Between:

The Management of
Singareni Collieries Co., Ltd.,
Kothagudem, Khammam District.

…Petitioner

and

The Presiding Officer,
Industrial Tribunal-I,
Hyderabad and another.

…Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13272 of 1995.

Oral order:

The Singareni Collieries Company Limited has filed this writ petition, aggrieved by the award dated 16-4-1994 in I.D.No. 12 of 1991 of the Industrial Tribunal-I, Hyderaqbad.

The Government of India, on 25-4-1991, referred for resolution by the Industrial Tribunal, Hyderabad, the dispute under Section 10 (1)(d) (2A) of the Industrial Disputes Act, 1947 (for short 'the Act'). The dispute referred for adjudication reads as under:

> "Whether the demand of Singareni Collieries Worker's Union (AITUC), Kothagudem for confirmation of Sri A.Rajeshwar Rao, Press Workman as Cylinder Machine Operator, M/s S.C.Co.,Ltd., Kothagudem, in the resultant vacancy is justified? If not, to what relief is the workman entitled?"

The claim by the Singareni Collieries Worker's Union was that one Sri A.Rajeshwar Rao was working as a Press Worker in Singareni Press, Kothagudem; he was appointed on 19-12-1979 as an Apprentice; after completion of four months service, the Management has paid stipend up to 12-8-1980 and during this period the workman worked at the Cylinder Machine. Thereafter the Management placed him in Category-I wages from

12-8-1980 with the designation of a Press Worker after passing the interview. Thereafter Rajeshwar Rao was attending to full-fledged work independently and regularly after putting in 8 years of service as Assistant at the Cylinder Machine with due authorization to operate the Cylinder Machine from 30-5-1988. He was also issued certificates that

he is working as an Assistant to the Cylinder Machine Operator, vide letter dated 22-12-1986. Another individual Sri R.Sambasiva Rao who worked as Cylinder Machine Operator on Grade-E was promoted to Grade-D resulting in a vacancy of Cylinder Machine Operator and therefore, Rajeshwar Rao is entitled for confirmation as the Cylinder Machine Operator with retrospective effect from the date on which the vacancy of Cylinder Machine Operator arose on the promotion of R.Sambasiva Rao.

On behalf of the petitioner-Singareni Collieries, a counter-affidavit and additional counter-affidavit were filed before the Industrial Tribunal. The Management contended that Rajeshwar Rao was appointed as a Press Worker by an office order dated 12-8-1980 in Category-I wages. He does not fall within the settlement nor has he passed the Trade Test or jave the eligibility to demand a higher grade post. The workman was employed as a Press Worker (General Mazdoor) in Category-I and is discharging the duties attached to that post. As Rajeshwar Rao has neither the skill; the prescribed qualification; nor is eligible for promotion, he cannot be promoted just because the vacancy in the post of Cylinder Machine Operator is available. It is also asserted in the additional counter-affidavit that Rajeshwar Rao was working as a General Mazdoor in Category-I and his work consisted of paper setting, cleaning and lubrication of the machines and other jobs like lifting the raw material, finished goods, packing, loading and the like. General Mazdoors are not entitled to be appointed as Cylinder Machine Operators, a post in Grade-E. As a General Mazdoor, Rajeshwar Rao was occasionally employed on certain sundry Cylinder Machine operations on account of his having worked for a considerable time as a Press Worker. Dealing with the illustration of R.Sambasiva Rao furnished by the Union, the Management asserted that Sambasiva Rao was a Machine Man and not a Press Worker and was therefore upgraded from

Grade-E to Grade-D and even after upgradation, Sambasiva Rao was doing the same work as a Machine Operator without a change in functions. Rajeshwar Rao, after completion of ten years of service in Category-I was given Category-II. He is not entitled to appointment to Grade-E post.

On behalf of the workman, Rajeshwar Rao wasexamined as WW-1 and marked Exs.W-1 to W-4.

Rajeshwar Rao testified in conformity with his pleadings. To the extent relevant and material, he admitted that he was appointed initially as an Apprentice trainee on 19-12-1977 and thereafter as a Press Worker but stated that since 1981 till 1992 he worked in the Machine section as an Assistant Machine Man. Ex.W1 is copy of service certificate dated 22-12-1986; Ex.W2 is copy of the authorization letter dated 21-5-1985; Ex.W3 is an office order promoting one T.K.Kuriakose to Grade-E; and Ex.W4 is the representation of the petitioner to the Grievance Committee. The oral testimony of the workman Rajeshwar Rao is only to the effect that he was working occasionally on the Cylinder Machine. Even the documentary evidence does not support the workman's case that he was employed formally as the Cylinder Machine Operator. Merely on the ground that the Management failed to lead any oral or documentary evidence, the learned Industrial Tribunal granted an award directing to confirm Rajeshwar Rao as the Cylinder Machine Operator with retrospective effect.

The discussion and analysis of the evidence is extremely perfunctory. The learned Industrial Tribunal failed to confirm to the forensic discipline of analyzing the evidence, to support the conclusion. A casual statement is made in the order of the learned Tribunal that "*I find that there is some merits on behalf of the petitioner workman in seeking for promotion to Grade-E from Category-I. Since Sri R.Sambasiva Rao, Cylinder Machine Operator on Grade-E was*

promoted to Grade-D resulting a vacancy of Cylinder Machine Operator, Sri Rajeshwear Rao is rightly entitled for confirmation as Cylinder Machine Operator with retrospective effect. Hence, I find that the principles of natural justice has been violated by the Respondent Management by not confirming Sri Rajeshwar Rao as Cylinder Machine Operator."

It is not clear, which principles of natural justice mandate a General Mazdoor of Category-I to be appointed as a Cylinder Machine Operator in Grade-E.

The order of the Industrial Tribunal, which is impeached in this writ petition is unsustainable. The conclusions are based on no logical process of analysis or on any evidence, which preponderate the grant of relief.

In the circumstances, the writ petition is allowed. The order dated 16-4-1994 in I.D.No. 12 of 1991 is set aside. There shall be no order as to costs.

GODA RAGHURAM, J

5th December, 2006.
GRR